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HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 1062 of 2004

Appellant		Shankar Lal Lohia, aged about 70 years, S/o Shri Jawahar Lal Lohia, R/o Budhapara, behind Dr. Kukreja's Lane, P.S. Kotwali, Raipur (C.G.).
	Versus	
Respondents	1.	Vijay Kumar Sharma, aged about 39 years, S/o Hari Shankar Sharma, R/o Jain Bada, Bijnathpara, Thana Kotwali, Raipur (C.G.). (Driver & owner of vehicle Tata Sumo No. CG 04-4511)
	2.	United India Insurance Co. Ltd., through Divisional Office, Krishna Complex, Kutchery Chowk, Raipur (C.G.). (Insurer of Vehicle Tata Sumo No. C.G. 04-4511)

DB: Hon'ble Shri Justice S. R. Nayak, C.J.
& Hon'ble Shri Justice Satish K. Agnihotri, J.

Mr. Sachin Singh Rajput, Advocate for the appellant.

Mr. S. K. Dadsena, Advocate for the Respondent No.1.

Mr. Dashrath Gupta, Advocate for the Respondent No.2.

ORAL ORDER

(29th November 2005)

1. The appellant herein, claiming that he sustained certain personal injuries in a motor vehicle accident occurred on 13.10.2001, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') before the Motor Accident Claims Tribunal on 10th April, 2002. After notice to the respondents and they put in appearance, as could be seen from the order sheets maintained by the Tribunal, the case was adjourned from time to time, as many as 25 times. The order sheet also discloses that the case was posted on 11 different occasions exclusively for adducing evidence by the claimant. The claimant did not choose to adduce evidence notwithstanding liberal adjournments granted by the M.A.C.T. from time to time. In the circumstance, the M.A.C.T. closed the evidence of the appellant/claimant on 13.4.2004.

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2. We have perused the original records of the case. The case was posted on number of occasions exclusively for adduction of evidence by the claimant as many as on 11 occasions. The claimant did not choose to adduce any evidence. Therefore, it could not be said that the M.A.C.T. was not justified in closing the evidence of the claimant by its order dated 11.3.2004 and dismissed the claim petition for want of legal evidence in support of the claim. It may be noticed that even the order dated 13.4.2004 rejecting application of the appellant to adduce evidence is also not challenged by the appellant. However, it was stated before us by learned counsel Shri Sachin Singh Rajput that the appellant/claimant was bedridden and he was not in a position to move about and therefore, he could not appear before the Tribunal to adduce evidence. The submission made by learned counsel is not convincing to us. If the appellant was not well and he was bedridden, he could have prayed the Tribunal to record his evidence by appointing Commissioner or he could have authorized someone to give evidence on his behalf before the Tribunal. In the facts and circumstances of the case, we are not persuaded to think that the Tribunal has exercised the discretion vested in it arbitrarily or unreasonably. Law helps diligent and not indolent.. Though, ample opportunities were given to the appellant to prove his case, he could not make use of the opportunities and such a man is not entitled to contend before this Court that he was denied opportunity to adduce evidence. Looking from any angle, we cannot take any exception to the impugned award. In the circumstance, we dismiss the appeal. No costs.

Sd/-
Chief Justice

Sd/-
SATISH K. AGNIHOTRI
Judge